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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 21, 2019
86th Legislature, Number 70
The House convenes at 10 a.m.
Part Two

The bills and joint resolutions analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

Today is the last day for the House to consider Senate bills and joint resolutions on second reading, other than local and consent, on a daily or supplemental calendar.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 70

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 21, 2019

86th Legislature, Number 70

Part 2

SUBJECT: Authorizing the creation of accelerated campus turnaround plans

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Huberty, Allison, Ashby, K. Bell, Dutton, K. King, Meyer, Sanford, Talarico, VanDeaver

2 nays — Allen, M. González

0 absent

1 present not voting — Bernal

SENATE VOTE: On final passage, April 29 — 29-2 (Menéndez, Rodríguez)

WITNESSES: For — (*Registered, but did not testify*: Priscilla Camacho, Dallas Regional Chamber; Seth Rau, San Antonio ISD; Molly Weiner, Texas Aspires Foundation; Casey McCreary, Texas Association of School Administrators; Will Holleman, Texas Association of School Boards; Kyle Ward, Texas PTA; Julie Linn, The Commit Partnership)

Against — Andrea Chevalier, Association of Texas Professional Educators; Patty Quinzi, Texas American Federation of Teachers; Lisa Dawn-Fisher, Texas State Teachers Association; (*Registered, but did not testify*: Chris Masey, Coalition of Texans with Disabilities; Holly Eaton, Texas Classroom Teachers Association; John Grey, Texas School Alliance)

On — (*Registered, but did not testify*: Christopher Jones, Texas Education Agency)

BACKGROUND: Education Code sec. 39A.101 requires the commissioner of the Texas Education Agency to order a campus that has been identified as unacceptable for two consecutive years to prepare and submit a campus turnaround plan.

Sec. 39A.105 requires a campus turnaround plan to include:

- details on the methods for restructuring, reforming, or reconstituting the campus;
- a detailed description of the academic programs offered at the campus;
- if a charter is to be granted for the campus, the term of the charter and information on its implementation;
- written comments from parents, teachers, and the campus-level committee, if applicable; and
- a detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided to the school district or other identified sources.

DIGEST:

CSSB 1412 would authorize a public school district to submit an accelerated campus excellence turnaround plan, provide requirements for such a plan, establish criteria for a nonprofit organization to operate a repurposed campus, and grant the commissioner of education final authority on decisions related to campus turnaround plans.

Plan requirements. CSSB 1412 would require accelerated turnaround plans to provide:

- the assignment of a principal to the campus who had a demonstrated history of improving student academic growth;
- that the principal had final authority over personnel decisions;
- that at least 80 percent of classroom teachers assigned to the campus performed in the top quartile of teachers in the district that employed the teacher during the previous school year, with performance determined in a manner specified by the bill;
- a detailed description of the employment and compensation structures for the principal and classroom teachers, which would have to include significant incentives for high-performing teachers and principals and a three-year commitment by the district to continue those incentives; and
- assistance by a third-party provider that was approved by the commissioner in the development and implementation of the

district's plan.

Policies and procedures for the implementation of the plan would have to include:

- data-driven instructional practices;
- a system of observation of and feedback for classroom teachers;
- positive student culture on the campus;
- family and community engagement, including partnerships with parent and community groups;
- extended learning opportunities for students, which could include service or workforce learning opportunities; and
- providing student services before or after the instructional day that improved student performance.

Operating a repurposed campus. If the commissioner ordered the closure of a campus for the purpose of an accountability intervention, that campus could be repurposed to serve students if the commissioner found that the repurposed campus offered a distinctly different academic program and was operated under a contract, approved by the school district board of trustees, with a tax-exempt nonprofit organization. The nonprofit organization would be required to:

- have a governing board that was independent of the district;
- have a successful history of operating school district campuses or open-enrollment charter schools that served 10,000 or more total students with a majority of schools receiving an overall performance rating of B or higher for the preceding school year; and
- have been assigned an overall performance rating of B or higher for the preceding school year.

The contract with the nonprofit organization would have to provide that a student residing in the attendance zone of the campus immediately before the campus was repurposed would be admitted for enrollment at the repurposed campus.

Commissioner authority and duties. The commissioner would be required to approve a campus turnaround plan that met the requirements for an accelerated campus excellence turnaround plan provided that the plan met the general requirements for turnaround plans.

CSSB 1412 would establish that a decision made by the commissioner regarding accountability interventions and sanctions was final and could not be appealed.

The bill would require the commissioner to select one campus that received an unacceptable rating for the 2017-2018 school year, regardless of the number of consecutive years the campus had received an unacceptable rating, to submit an accelerated campus excellence turnaround plan for the 2019-2020 school year. The commissioner could adjust certain statutory timelines relating to accountability interventions and sanctions for the purposes of developing and implementing the plan.

The commissioner would be authorized to adopt rules as necessary to implement the bill.

The bill would apply beginning with the 2020-2021 school year except for the provisions relating to the commissioner's selection of one campus to submit an accelerated plan for the 2019-2020 school year and relating to the repurposing of a campus to operate under a certain contract with a qualifying nonprofit.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

CSSB 1412 would incentivize a school district's most effective educators to lead and teach at historically underperforming campuses with large achievement gaps that had failed to meet accountability standards. Through strategic staffing, performance-based pay, and community partnerships, CSSB 1412 would provide schools with the tools and flexibility necessary to improve.

Accelerated campus excellence plans have been proven to help school

districts identify, retain, and reward educators who enable students with the greatest need to learn and thrive.

OPPONENTS SAY:

CSSB 1412 would provide the commissioner of the Texas Education Agency considerable power over accelerated campus excellence turnaround plans. Tying teacher pay to student growth could lead to the use of standardized tests in performance evaluations, which would be difficult to apply uniformly. A campus turnaround system built by administrators and educators on the local level would better reflect the needs of failing schools.

SUBJECT: Disqualifying convicted felons from serving on school district boards

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allison, Ashby, K. Bell, Dutton, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

1 absent — M. González

1 present not voting — Allen

SENATE VOTE: On final passage, May 7 — 30-1 (Creighton)

WITNESSES: No public hearing

DIGEST: SB 2283 would make an individual who was convicted of or who pleaded guilty or nolo contendere to a felony ineligible from serving on a school district board of trustees.

The bill would take effect September 1, 2019, and would apply only to a member of a school district's board of trustees who was elected or appointed on or after that date. A member of a school board elected or appointed before the effective date of the bill would continue to serve for the term to which the member was elected or appointed unless otherwise removed as provided by law.

SUPPORTERS SAY: SB 2283 would promote trust in Texas public schools and protect these schools and their students by prohibiting individuals who had been convicted or pleaded guilty or no contest to a felony from serving on the school board. Currently, school board trustees who are convicted of or who have pleaded guilty or no contest to a felony still are allowed to serve on school boards. Preventing these individuals from serving on school boards in a place of trust would protect public schools and set a positive example for students.

OPPONENTS SAY:

SB 2283 could unfairly deprive individuals who had paid their debts to society from serving on school district boards of trustees. Even individuals convicted of felonies or who have pleaded guilty or no contest to a felony should have a second opportunity to participate in their communities.

SUBJECT: Adding criteria for a Sunset review of an agency that licenses occupations

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Phelan, Hernandez, Deshotel, Guerra, Harless, Holland, Hunter, P. King, Parker, E. Rodriguez, Smithee, Springer

0 nays

1 absent — Raymond

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Julia Parenteau, Texas Realtors)

Against — None

On — (*Registered, but did not testify*: Brian Francis, Texas Department of Licensing and Regulation)

BACKGROUND: Concerns have been raised about the online availability of personal information of occupational license holders, with calls to ensure the agencies issuing the licenses exercise caution when posting information online in order to protect the safety of these licensees.

DIGEST: SB 237 would require the Sunset Advisory Commission, as part of its review of an agency that licenses an occupation or profession, to determine whether the agency's governing body had made an evaluation of the type of personal information of license holders the agency should make available on its website, based on the following factors:

- the type of information the public needed to verify a license, locate a service provider, and file a complaint with the agency; and
- whether making the information available on the website could subject a licensee to harassment, solicitation, or other nuisance.

If the Sunset Advisory Commission determined that the agency's

governing body had not completed such an evaluation, then it would be required to make a recommendation that the governing body do so.

The bill would take effect September 1, 2019.

SUBJECT: Allowing certain tolling entities to send notices electronically

COMMITTEE: Transportation — favorable, without amendment

VOTE: 12 ayes — Canales, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

1 absent — Landgraf

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 4398:*
For — (*Registered, but did not testify*: Terri Hall, Texas TURF and Texans for Toll-Free Highways; Don Dixon; Tom Glass; Jenna Hall)

Against — None

On — Brian Ragland, Texas Department of Transportation

BACKGROUND: Transportation Code ch. 284, ch. 370, and ch. 372 describe certain tolling entities that may send a notice of nonpayment via first class mail.

It has been suggested that email, text, or another form of digital communication would be more efficient than sending notice via first class mail.

DIGEST: SB 1311 would allow certain tolling entities to send an invoice or notice of nonpayment as an electronic record if the recipient of the information agreed to the transmission as an electronic record and on terms acceptable to the recipient.

The bill would take effect September 1, 2019.

SUBJECT: Adding certain mental health recommendations to an annual report

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — S. Thompson, Wray, Allison, Coleman, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

SENATE VOTE: On final passage, April 9 — 30-1 (Buckingham)

WITNESSES: For — (*Registered, but did not testify*: Marisa Finley, Baylor Scott & White Health; Christine Yanas, Methodist Healthcare Ministries of South Texas; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness Texas; Eric Kunish, National Alliance on Mental Illness Austin; Kevin Stewart, Texas Nurse Practitioners, Texas Psychological Association; Richard Perez, The San Antonio Chamber of Commerce; and 12 individuals)

Against — None

On — (*Registered, but did not testify*: John Monk, Health Professions Council)

BACKGROUND: Occupations Code sec. 101.151 requires the Health Professions Council to prepare an annual report compiling enforcement actions taken by the health profession regulatory boards of the state, recommendations for improving regulatory statute, and any other information deemed necessary by the council. The report must be sent to the governor, lieutenant governor, and House speaker by February 1 of each year.

DIGEST: SB 1636 would expand the requirements of the annual Health Professions Council report to include strategies to expand the health care workforce in Texas. These strategies would include:

- methods for reducing the time required to process license applications for health care professions;

- methods for increasing the number of mental and behavioral health care practitioners; and
- recommendations for statutory and legislative appropriations to expand the health care workforce, including in areas that are medically underserved.

The bill would add the chairs of the House and Senate standing committees with primary jurisdiction over public health and state finance or appropriations to the list of report recipients.

A report that included only the strategies specified in the bill's provisions would be due to the above recipients by June 1, 2020. The council would not be required to include the bill's provisions in its full reporting until February 1, 2021.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Requiring school district cybersecurity policies; designating coordinator

COMMITTEE: Public Education — committee substitute recommended

VOTE: 12 ayes — Huberty, Bernal, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

1 nay — Allen

0 absent

SENATE VOTE: On final passage, April 26 — 30-0, on Local and Uncontested calendar

WITNESSES: For — None

Against — (*Registered, but did not testify*: John Grey, Texas School Alliance)

On — (*Registered, but did not testify*: Christopher Jones, Texas Education Agency)

DIGEST: CSSB 820 would require each school district to adopt a cybersecurity policy to secure district cyberinfrastructure against cyber attacks and other cybersecurity incidents and determine cybersecurity risk and implement mitigation planning.

A district's policy could not conflict with the information security standards for institutions of higher education adopted by the Department of Information Resources under state laws governing information resources and the Texas computer network security system.

The superintendent of each school district would have to designate a cybersecurity coordinator to serve as a liaison between the district and the Texas Education Agency (TEA). The coordinator would have to report to TEA any cyber attack or other cybersecurity incident against the district's cyberinfrastructure that constituted a breach of system security as soon as practicable after the attack or incident was discovered.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSSB 820 would assist school districts in developing a cybersecurity foundation. School district systems contain valuable student and employee data that are targets for cyber criminals, including personally identifiable information, grades and attendance records, and salary information.

The bill would implement selected recommendations from the Data Security Advisory Committee that could be implemented with little to no cost while still helping to keep sensitive data safe from cyber attacks. The committee consists of members from various independent school districts and the Texas Education Agency and provides guidance to education communities on information security issues and resources. The bill also would not specify a time frame for adoption of the cybersecurity policy or designation of the cybersecurity coordinator to avoid increasing cost burdens to school districts in implementation.

OPPONENTS SAY:

CSSB 820 could result in an unfunded mandate to school districts, especially those that would have to hire additional personnel to comply with the bill's requirements, increasing burdens and costs.

SUBJECT: Authorizing certain powers of TJJD independent ombudsman

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 6 ayes — Dutton, Murr, Calanni, Dean, Lopez, Talarico

1 nay — Bowers

2 absent — Cyrier, Shine

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Human Resources Code sec. 261.101 governs the duties and powers of the Office of the Independent Ombudsman of the Texas Juvenile Justice Department.

It has been suggested that the ombudsman should be able to oversee any facility where a juvenile might be placed.

DIGEST: SB 1702 would establish that the powers of the Office of the Independent Ombudsman of the Texas Juvenile Justice Department (TJJD) included:

- the inspection of facilities owned by TJJD, post-adjudication secure correctional facilities, non-secure correctional facilities, and any other residential facilities in which children adjudicated as having engaged in conduct indicating a need for supervision or delinquent conduct were placed by court order; and
- the investigation of complaints alleging violations of the rights of the children in these facilities.

The bill would take effect September 1, 2019.

SUBJECT: Removing intent to harm requirement in crime of taking officer's weapon

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Collier, Zedler, K. Bell, J. González, Murr, Pacheco

0 nays

3 absent — Hunter, P. King, Moody

SENATE VOTE: On final passage, May 3 — 31-0, on Local and Uncontested calendar

WITNESSES: No public hearing

BACKGROUND: Under Penal Code sec. 38.14, it is a crime for a person to intentionally or knowingly and with force take or attempt to take a firearm, nightstick, stun gun, or personal protection chemical dispensing device from a peace officer, federal special investigator, employee or official of a correctional facility, parole officer, community supervision and corrections department officer, or commissioned security officer with the intention of harming the officer, investigator, employee, or official or a third person.

The offense is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the weapon was taken or a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) if the offense involved an attempt to take a weapon.

DIGEST: SB 1754 would remove the requirement that there be intent to harm during commission of the offense of taking or attempting to take a weapon from a peace officer, investigator, or other specified person.

The bill would take effect September 1, 2019, and would apply to offenses committed on or after that date.

SUBJECT: Revising ballot language requirements in school bond elections

COMMITTEE: Pensions, Investments, and Financial Services — favorable, without amendment

VOTE: 7 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Stephenson

2 nays — Lambert, Wu

2 absent — Leach, Longoria

SENATE VOTE: On final passage, April 11 — 31-0

WITNESSES: For — James Quintero, Texas Public Policy Foundation (*Registered, but did not testify*: Amanda List, Hunton Andrews Kurth; Julia Parenteau, Texas Realtors)

Against — (*Registered, but did not testify*: Jamaal Smith and Bill Kelly, City of Houston Mayor's Office; Will Holleman, Texas Association of School Boards; Buck Gilcrease, Texas School Alliance; Alexis Tatum, Travis County Commissioners Court)

On — James Hernandez, Harris County; Ruben Longoria, Texas Association of School Boards; Johnny Hill, Texas Association of School Business Officials; Jonathan Frels; (*Registered, but did not testify*: Colby Nichols, Texas Association of School Administrators)

DIGEST: SB 30 would require the governing board of an independent school district to put forward separate ballot propositions to authorize bonds for the construction, improvement, or renovation of:

- a stadium;
- a natatorium;
- a recreational facility other than a gymnasium;
- a performing arts facility; and
- housing for teachers as determined by the district to be necessary to

have a sufficient number of teachers for the district.

The bill would require the question of whether to approve the issuance of bonds for one of the above listed buildings to be a separate ballot proposition regardless of whether that building was proposed as part of a complex or building containing traditional classroom facilities. Each ballot proposition would have to state the principal amount of the bonds to be issued that constituted the cost for construction of that portion of the building or complex attributable to one of the buildings listed above or to the traditional classroom facilities, as applicable.

The bill also would require bonds for an acquisition or update of technology equipment, other than equipment used for school security purposes, to be stated in a separate proposition.

SB 30 would require a plain language description of the single specific purpose for which the bonds were to be authorized. Each single specific purpose for which bonds requiring voter approval were to be issued would have to be printed on the ballot as a separate proposition.

Notwithstanding the other statutory requirements for school bond ballot proposition language, the question of whether to approve the issuance of bonds for the construction, acquisition, and equipment of school buildings in the district and the purchase of necessary sites for school buildings other than those listed above could be submitted to the voters in a single ballot proposition.

The bill would take effect September 1, 2019, and would apply only to an election ordered after that date.

SUPPORTERS SAY:

SB 30 would make school bond elections more transparent, giving voters the information needed to understand the purposes of the bonds they were being asked to approve.

Taxing entities sometimes combine many purposes into single-ballot bonds, sometimes with values exceeding a billion dollars. This bill would give voters greater understanding and control over the authorization of bonded debt for public schools.

The bill's requirement that the single specific purpose of the bond be stated in plain language on the ballot is important for ballot transparency so that voters can make an informed voting decision.

SB 30 would not require each individual school project to be listed in a separate proposition. Accordingly, a school bond election would not have fragmented or unequal results, authorizing some school buildings but not others within a single district. The bill would not require taxing entities to list out propositions by project but instead by purpose.

SB 30 and other similar legislation are working toward the same goals of informing voters. HB 477 would provide more in-depth information for voters to review prior to elections and SB 30 would add a minimal amount of extra information to the ballot to make voters aware of the specific purpose of the bond.

OPPONENTS SAY:

SB 30 would present a less nuanced approach to the issue of voter education than other proposed legislation. Other approaches, such as that in HB 477, would better achieve the goals of financial transparency and open government by requiring a voter information document to be publicly available, rather than expanding the language on the bond election ballot itself. The voter information document would inform voters while avoiding the potential for voter fatigue and ballot drop off.

SUBJECT: Prohibiting disciplining teachers on the basis of disciplinary referrals

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, K. King, Meyer, VanDeaver

1 nay — Talarico

2 absent — Dutton, Sanford

1 present not voting — M. González

SENATE VOTE: On final passage, April 11 — 31-0

WITNESSES: For — Paige Williams, Texas Classroom Teachers Association; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Dwight Harris, Texas American Federation of Teachers; Lisa Dawn-Fisher, Texas State Teachers Association)

Against — (*Registered, but did not testify*: Chris Masey, Coalition of Texans with Disabilities; Steven Aleman, Disability Rights Texas)

On — (*Registered, but did not testify*: Eric Marin, Texas Education Agency)

BACKGROUND: Education Code sec. 21.352 requires school districts to evaluate teachers' implementation of discipline management procedures in the appraisal of performance.

Sec. 37.002 authorizes a teacher to send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. This practice is referred to as a "disciplinary referral."

DIGEST: SB 1451 would authorize a teacher to document any conduct by a student that did not conform to the student code of conduct and to submit that documentation to the principal. Public school districts could not discipline

a teacher for such documentation.

In adopting criteria for the appraisal of teachers, the commissioner of the Texas Education Agency would have to ensure that a school district could not mark a teacher as deficient in an appraisal solely on the basis of disciplinary referrals made by the teacher or documents submitted by the teacher regarding student conduct.

SB 1451 would not prohibit a teacher from being marked deficient based on documented evidence of a deficiency of classroom management obtained through observation or a substantiated report.

The bill would apply beginning with the 2019-2020 school year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1451 would enable teachers to maintain a safe, orderly learning environment without fear of being negatively appraised for implementing discipline. Administrative support for the removal of disruptive or abusive students would help teachers feel supported and could lead to increased retention.

The bill would not take away the appraisal of discipline procedures and still would allow for a teacher to receive a negative evaluation or appraisal if the teacher was shown to engage in improper classroom management.

OPPONENTS SAY:

SB 1451 could prevent teachers from being held accountable for their disciplinary practices. Teachers who use disciplinary referrals excessively should be properly evaluated.

SUBJECT: Changing compensation to emergency services districts upon annexation

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 7 ayes — Craddick, Muñoz, Bell, Biedermann, Leman, Minjarez, Thierry

0 nays

2 absent — Canales, Stickland

SENATE VOTE: On final passage, April 26 — 30-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 2267:*
For — Ken Bailey, Travis County ESD 11; John Carlton; Texas State Association of Fire and Emergency Districts; (*Registered, but did not testify*: Alexis Tatum, Travis County Commissioners Court; Vanessa MacDougal)

Against — (*Registered, but did not testify*: TJ Patterson, City of Fort Worth)

BACKGROUND: Health and Safety Code sec. 775.022 governs the removal of territory from an emergency services district by a municipality that has annexed the district's territory. It requires the municipality to compensate the district in an amount equal to the district's total indebtedness at the time of annexation multiplied by a fraction in which:

- the numerator is the assessed value of the property to be annexed; and
- the denominator is the total assessed value of the property of the district.

The assessed property value in both cases is based on the most recent certified county tax rolls.

Interested parties have expressed concerns that the current formula does not fully reflect the revenue lost by the district.

DIGEST:

SB 1083 would establish an additional formula for calculating the amount that a municipality would have to pay to an emergency services district when the municipality annexed territory that had been included in the district. The municipality would be required to compensate the district by an amount equal to the larger of the two results yielded by the calculation of each formula.

The formula established by the bill would multiply the district's total indebtedness at the time of annexation by a fraction in which:

- the numerator was the assessed value of the property to be annexed plus the total amount of the district's sales and use tax revenue collected by retailers located in the property to be annexed; and
- the denominator was the total assessed value of the property of the district plus the total amount of the district's sales and use tax revenue collected by retailers located in the district.

The assessed property value in both cases would be based on the most recent certified county tax rolls. The tax revenue would be the data reported by the comptroller relating to the 12 months preceding the date of annexation.

The bill would take effect September 1, 2019.

SUBJECT: Expanding reporting requirements for health care-associated infections

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — S. Thompson, Allison, Coleman, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Wray

SENATE VOTE: On final passage, April 10 — 30-0

WITNESSES: No public hearing

BACKGROUND: Health and Safety Code sec. 98.103 establishes state requirements for health care facilities to report certain health care-associated infections to the Department of State Health Services. These requirements differ for the type of infection and type of care.

Some suggest there may be confusion about and inefficiencies in state reporting requirements for certain health care-associated infections at health care facilities. They suggest that aligning the state's reporting requirements with federal requirements could improve clarity and help minimize future infections.

DIGEST: SB 384 would revise reporting requirements for health care-associated infections at health care facilities.

The bill would require all health care facilities to report to the Department of State Health Services (DSHS) each health care-associated infection that occurred in the facility and that the federal Centers for Medicare and Medicaid Services required a facility participating in the Medicare program to report through the federal Centers for Disease Control and Prevention's National Healthcare Safety Network. A health care facility would be required to report such infections to DSHS regardless of the facility's participation in Medicare.

The executive commissioner of the Health and Human Services Commission (HHSC) would be required to adopt rules to implement the bill's provisions by January 1, 2020, and new reporting requirements for infections would apply only to reports for health care-associated infections that occurred on or after that date.

HHSC would be required to implement the provisions of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money specifically for that purpose, HHSC could, but would not be required to, implement a provision of the bill using other appropriations available for that purpose.

The bill would take effect September 1, 2019.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $461,000 to general revenue related funds through fiscal 2020-21.

SUBJECT: Requiring minimum standards for listed family homes

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble

0 nays

1 absent — Rose

SENATE VOTE: On final passage, April 16 — 29-2 (Hall, Hughes)

WITNESSES: *On House companion bill, HB 4259:*
For — (*Registered, but did not testify*: Jason Sabo, Children at Risk; Chris Masey, Coalition of Texans with Disabilities; Melanie Rubin, Dallas Early Education Alliance; David Feigen, Texans Care for Children; Kimberly Kofron, Texas Association for the Education of Young Children; Jennifer Lucy, TexProtects; Ashley Harris, United Ways of Texas)

Against — None

On — Jean Shaw, Health and Human Services Commission

BACKGROUND: Human Resources Code ch. 42 governs the certification, registration, and listing of child care facilities by the Department of Family and Protective Services.

40 TAC part 19, ch. 745, subch. B, sec. 745.37 defines listed family homes as adult caregivers that provide care in their own home for compensation for up to three children unrelated to the caregiver. The total number of children in care, including children related to the caregiver, may not exceed 12.

DIGEST: SB 569 would transfer regulatory authority for listed family homes from the Department of Family and Protective Services (DFPS) to the Health and Human Services Commission (HHSC). The bill would require HHSC

to adopt minimum standards for listed family homes, require liability insurance unless it was cost-prohibitive, and require certain trainings for operators of listed family homes.

Regulation. The bill would require the executive commissioner of HHSC by rule to establish minimum standards for listed family homes. These standards would have to:

- promote the health, safety, and welfare of children attending those homes;
- promote safe, comfortable, and healthy listed family homes for children;
- ensure adequate supervision of children by capable, qualified, and healthy personnel; and
- ensure medication was administered in accordance with state law.

In promulgating minimum standards, the executive commissioner could recognize and treat listed family homes differently than other types of regulated child care.

Applicants for listings to operate family homes would have to submit proof of successful completion of safe sleep training with their applications.

HHSC would provide each listed family home with a copy of the listing, which the operator of a listed family home would have to make available for examination. Such listings would have to include certain provisions as specified in the bill.

Investigations. The bill would add listed family homes to the facilities that an authorized HHSC representative could visit during operating hours to investigate, inspect, and evaluate. HHSC would have to investigate a listed family home when the commission received a complaint.

The bill also would include listed family homes in statutes governing complaint procedures and related offenses that apply to registered family homes.

HHSC would be required to provide at least five years of investigative data for listed family homes from the inspection information database maintained by DFPS to enhance consumer choice with respect to those homes.

Liability insurance. SB 569 would require listed family homes to maintain liability insurance coverage in the amount of $300,000 for each occurrence of negligence. Required insurance policies or contracts would have to cover injury to a child while the child was on the premises of or in the care of the listed family home.

A listed family home would have to annually file evidence of coverage with HHSC that demonstrated that the home had an active insurance policy that met the bill's requirements.

If a listed family home could not secure a policy or contract for financial reasons, for lack of an underwriter willing to issue the policy, or because the home's policy or contract limits were exhausted, the home would have to timely provide written notice to the parent or guardian of each child attending the home that the liability coverage was not provided. Such homes also would have to timely provide notice to HHSC that the home was unable to secure liability insurance and the reason that the insurance could not be secured.

If a listed family home complied with the notice requirements, HHSC could not assess an administrative penalty or suspend or revoke the home's listing for violating the insurance requirements. These provisions could not be used to indemnify a family home for damages due to negligence.

Implementation. As soon as practicable after the effective date, the executive commissioner of HHSC would have to adopt necessary rules to implement the bill. HHSC would be required to implement the bill only if specific appropriations were made by the Legislature. If no specific appropriation were made, HHSC could, but would not be required to, implement the provisions of the bill using other appropriations.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 569 would ensure that all child care centers, including listed family homes, were held accountable and liable for the safety of the children they served. A lack of regulation of listed family homes has resulted in substandard care for children and reports of high-risk violations, putting children in danger of abuse and neglect.

The bill would require the Health and Human Services Commission to inspect listed family homes whenever the commission received a complaint. SB 569 also would require family homes operators to provide proof that they had completed safe sleep training and require family homes to provide either liability insurance or clear notification to families of a lack of insurance if it were cost-prohibitive. These provisions would help ensure that listed family homes met certain standards without burdening small in-home businesses.

OPPONENTS SAY:

SB 569 would unnecessarily regulate in-home businesses and create an administrative burden by requiring training and liability insurance in certain circumstances.

NOTES:

According to estimates from the Legislative Budget Board, the bill would have a negative impact of $1.3 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Revising contract requirements between Medicaid MCOs and HHSC

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Frank, Hinojosa, Deshotel, Klick, Meza, Miller, Noble, Rose

0 nays

1 absent — Clardy

SENATE VOTE: On final passage, May 3 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Christine Bryan, Clarity Child Guidance Center; Monica Thyssen, Meadows Mental Health Policy Institute; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Chris Masey, Coalition of Texans with Disabilities; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Greg Hansch, National Alliance on Mental Illness Texas; Eric Kunish, National Alliance on Mental Illness Austin; Will Francis, National Association of Social Workers-Texas Chapter; Josette Saxton, Texans Care for Children; Lee Johnson, Texas Council of Community Centers; Cameron Duncan, Texas Hospital Association; Michelle Romero, Texas Medical Association)

Against — None

On — (*Registered, but did not testify*: Sarah Melecki, Health and Human Services Commission)

BACKGROUND: Government Code sec. 533.005 establishes requirements for a contract between a Medicaid managed care organization and the Health and Human Services Commission.

Some have noted substantial gaps in the availability of intensive home-based and community-based mental health services for children enrolled in Medicaid with serious mental health issues. Interested parties have suggested revising contract requirements for Medicaid managed care organizations to increase flexibility in providing more cost-effective and

evidence-based services under Medicaid managed care programs.

DIGEST:

SB 1177 would require a contract between a Medicaid managed care organization (MCO) and the Health and Human Services Commission (HHSC) to contain language permitting an MCO to offer medically appropriate, cost-effective, and evidence-based services from a list approved by the state Medicaid managed care advisory committee and included in the contract in lieu of mental health or substance use disorder services specified in the state Medicaid plan. A Medicaid recipient would not be required to use a service from the substituted list in the contract in lieu of another mental health or substance use disorder service specified in the state Medicaid plan.

HHSC would have to consider the actual cost and use of any services from the list included in the contract when setting capitation rates for the MCO.

HHSC also would have to submit an annual report to the Legislature regarding the number of times during the preceding year a service from the substituted list was used.

The bill would take effect September 1, 2019, and would apply to a contract entered into or renewed on or after that date.

SUBJECT: Redacting information regarding judges and spouses, requiring a report

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

SENATE VOTE: On final passage, March 18 — 30-0

WITNESSES: *On House companion bill, HB 3305:*
For — (*Registered, but did not testify*: Nicholas Chu, Justices of the Peace and Constables Association; Lee Parsley, Texans for Lawsuit Reform; George Christian, Texas Civil Justice League; Alexis Tatum, Travis County Commissioners Court; Paul Raleeh; Chuck Ruckel)

Against — None

On — David Slayton, Office of Court Administration, Texas Judicial Council

BACKGROUND: Property Code sec. 11.008 requires a county clerk to omit or redact from an instrument, defined as a deed or deed of trust, available in an online database made public by the county clerk the Social Security number, driver's license number, and residence address of a federal or state judge or such a judge's spouse upon receipt of a written request by the judge or spouse.

Some have suggested there are certain gaps in the state's court security laws, including with regard to information contained in publicly available campaign records.

DIGEST: SB 489 would require the Texas Ethics Commission to remove or redact the residence address of a federal or state judge or such a judge's spouse from any campaign report upon receiving notice from the Office of Court Administration (OCA) of the judge’s qualification for office or upon

receipt of a written request from the judge or spouse.

The bill would expand the definition of an instrument to include any record recorded by a county clerk related to real property, including a mineral lease, mechanic’s lien, or release of a mechanic’s lien.

SB 489 also would require the director of security and emergency preparedness appointed by OCA to submit to the Legislature an annual report on court security activities supported by OCA's judicial security division. The report must contain recommendations for monitoring the use of state resources in providing court security and for improving court security as well as recommendations for increasing state funds and other resources available for that purpose.

The bill would take effect September 1, 2019.

SUBJECT: Disposing of the property of a closed charter school

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

SENATE VOTE: On final passage, May 2 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Dwight Harris, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Will Holleman, Texas Association of School Boards; Lisa Dawn-Fisher, Texas State Teachers Association; Marty De Leon, Texas Urban Council)

Against — None

On — (*Registered, but did not testify*: Christopher Jones and Heather Mauze, Texas Education Agency)

BACKGROUND: Education Code sec. 12.128 contains requirements for the education commissioner to take possession and assume control of the property of a charter school that was purchased or leased with state funds and that ceases to operate. The education commissioner must supervise the disposition of the property according to state law.

Concerns have been raised that the involvement of various property interests, including those of the state, secured creditors, and charter holders, requires a clearer process for the sale, lease, and disposition of the property and the management of assets of a closed charter school.

DIGEST: CSSB 1454 would establish requirements for the disposition of property and management of assets when a charter school ceased operations. The bill also would establish requirements for disclosure of transactions

between a charter holder and a related party.

Remaining funds. The bill would require all remaining funds of a charter holder for an open-enrollment charter school that ceased to operate be returned to the Texas Education Agency (TEA) and deposited in the charter school liquidation fund. A charter school would cease to operate if its charter had been revoked, expired, surrendered, or abandoned, or if the school had otherwise ceased operation as a public school.

The agency could approve a transfer of a charter holder's remaining funds to another charter holder if the charter holder receiving the funds had not received certain notices involving the expiration or revocation of its charter for a charter school or notice of a reconstitution of the governing body. The commissioner of education could adopt rules specifying the time during which a former charter holder would have to return remaining funds and the qualifications for a charter holder to receive a transfer of remaining funds.

Property accounting. A charter school would have to provide an accounting of each parcel of the school's real property, including identifying the amount of local, state, and federal funds used to purchase or improve each parcel.

A closed charter school would have to submit a final annual financial report to TEA. The report would have to verify that all state property held by the charter holder had been returned or disposed of in accordance with Education Code sec. 12.128.

Purchased and leased property. While a charter school was in operation, the charter holder would hold title to its purchased property and could exercise complete control over it as permitted by law.

A charter holder could not transfer, sell, or otherwise dispose of any purchased or leased property without the prior written consent of TEA under certain conditions involving the expiration, nonrenewal, or revocation of its charter; if the school was placed under discretionary review; or if the school had otherwise ceased to operate.

If a charter school had ceased to operate, TEA would have to take certain actions specified by the bill for property purchased with state funds. The agency also could approve an expenditure of a charter holder's remaining funds for insurance or utilities or for maintenance, repairs, or improvements necessary to dispose of leased or purchased property or to preserve its value.

A former charter holder of a charter school that had ceased to operate could retain leased or purchased property if the former charter holder reimbursed the state with non-state funds, provided written assurance that it would meet the bill's requirements for closing school operations, and received approval from TEA.

Upon receiving TEA's consent and a written agreement from any creditor with a security interest, the former charter holder could sell property for fair market value or transfer it to another charter school or a school district as provided by the bill. The state would be entitled to reimbursement for the property as specified by the bill.

A former charter holder retaining or selling property would have to:

- file an affidavit in the real property records of the county in which the property was located disclosing the state interest in the property;
- place a specified amount of non-state funds in escrow with the comptroller by certain dates; and
- not later than two weeks after the charter holder's final financial audit was filed, submit to the state the final state reimbursement amount using the funds in escrow in addition to any other necessary funds.

A former charter holder could retain any funds remaining after complying with those requirements.

As soon as TEA was satisfied that the former charter holder had complied with the bill's requirements, the agency would have to file written notice releasing the state's interest in the retained property and authorize the return of any funds not used for state reimbursement.

Subject to the satisfaction of any security interest or lien, a former charter holder that did not dispose of property would have to transfer the property to TEA. If the agency determined a former charter holder had failed to comply with the bill's requirements, it could request the attorney general take any appropriate legal action to compel the former charter holder to convey title to TEA or other authorized governmental entity.

Transferred property. TEA could approve the transfer of property from a closed charter school or could transfer property conveyed to the agency by the former charter holder to a school district or another charter school under certain conditions. Property received in this way by a charter school or district would be considered to be state property.

If TEA determined that the cost of disposing of personal property transferred to the agency by a closed charter school exceeded the return of value from the sale of the property, the agency could distribute the personal property to open-enrollment charter schools and districts in a manner determined by the commissioner.

Sale of property. After TEA received title to property purchased or leased with state funds, it could sell the property at any price it found acceptable. On request, the General Land Office and the Texas Facilities Commission would have to enter into a memorandum of understanding to sell real or personal property. The land office or facilities commission could recover incurred costs from the sale proceeds. Subject to the satisfaction of any security interest or lien, the sale proceeds would be deposited in the charter school liquidation fund.

Closure of operations. After extinguishing all payable obligations owed by a closed open-enrollment charter school, a former charter holder would have to remit funds to TEA as proscribed by the bill. These funds would be deposited into the charter school liquidation fund.

TEA could use funds deposited into this fund to:

- pay expenses related to managing and closing a charter school, including maintenance of the school's student and other records and

the agency's personnel costs associated with managing and closing the school;
- dispose of property; and
- maintain property, including expenses for insurance, utilities, maintenance, and repairs.

TEA could not use reclaimed funds until the commissioner determined if the closed charter school had received an overallocation of funds that would have to be recovered for the Foundation School Program.

TEA would have to annually review the amount of funds in the charter school liquidation fund and transfer any funds exceeding $2 million to fund a grant program to encourage high school students to become teachers and assist current paraprofessionals and instructional aides in becoming credentialed teachers. The funds also could be transferred to the comptroller for deposit in the charter district bond guarantee reserve fund.

Under statutory requirements for interventions and sanctions, a board of managers appointed for the final closure of a former open-enrollment charter school would have authority to access and manage any former charter holder's bank account that contained state funds and, subject to approval by a creditor with a security interest in or lien on the property, sell or transfer to another charter holder or school district any property titled to the former charter holder identified as being acquired, wholly or partly, with state funds.

Related party transactions. CSSB 1454 would specify that state funds received by a charter holder could not be pledged or used to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party, or be used to support an operation or activity not related to the charter holder's educational activities.

The education commissioner would have to adopt a rule defining "related party" that would have to include:

- a party with a current or former board member, administrator, or officer who was a board member, administrator, or officer of an

open-enrollment charter school or related within the third degree of consanguinity or affinity to a board member, administrator, or officer of a charter school;

- a charter holder's related organizations, joint ventures, and jointly governed organizations;
- a charter school's board members, administrators, or officers or a person related to those individuals within the third degree of consanguinity or affinity; and
- any other disqualified person, as that term is defined by 26 U.S.C. sec. 4958(f).

A person would be considered a former board member, administrator, or officer if the person served in that capacity within one year of the date on which a financial transaction between the charter holder and a related party occurred.

A charter holder would have to include a list of all transactions with a related party in its annual audit required under the bill.

The education commissioner could adopt rules to require a charter school to notify the commissioner that it intended to enter into a transaction with a related party and provide an appraisal from a certified appraiser to the TEA.

If the commissioner determined that a charter holder's transaction with a related party using state funds was structured in a manner that did not benefit the charter school or was in excess of fair market value, the commissioner could order that the transaction be reclassified or that other action be taken to protect the school's interest. A failure to comply with the commissioner's order would be a material violation of the charter.

An audit by the commissioner of a charter entity could include the review of any real property transactions between the charter holder and the related party if the aggregate amount of all transactions between the charter holder and party exceeded $5,000.

A statutorily required financial report filed by a charter school would have to separately disclose:

- all financial transactions between the charter school and any related party, separately stating the principal, interest, and lease payments; and
- the total compensation and benefits provided by the school and any related party for each member of the school's governing body and each officer and administrator and the related party.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.